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 Attorneys for Defendants,
 ERICA L. BRACHFELD and ERICA L. BRACHFELD,
 A.P.C. erroneously sued as LAW OFFICES OF
 BRACHFELD & ASSOCIATES, P.C.

UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

MERCY MESIANO,)	CASE NO. 09 CV 1046 MMA BLM
)	
Plaintiff,)	DEFENDANT ERICA L. BRACHFELD,
)	A.P.C.'S ANSWER TO COMPLAINT
vs.)	
)	
ERICA L. BRACHFELD AND LAW)	
OFFICES OF BRACHFELD &)	
ASSOCIATES, P.C.)	
)	
Defendant.)	

COMES NOW Defendant, ERICA L. BRACHFELD, A.P.C. erroneously sued as
 LAW OFFICES OF BRACHFELD & ASSOCIATES, P.C., (“Defendant”), appearing for itself and
 for no other person, firm or entity, files its Answer to the Complaint of Plaintiff, MERCY
 MESIANO (“Plaintiff”), an individual, by admitting, denying and alleging as follows:

1. Answering Paragraph 1 of the Complaint, the allegations set forth are conclusions
 of law and therefore, no response is required.
2. Answering Paragraph 2 of the Complaint, the allegations set forth are conclusions
 of law and therefore, no response is required.
3. Answering Paragraph 3 of the Complaint, Defendant admits that Plaintiff filed this
 action against Defendant. Defendant denies the remaining allegations therein.
4. Answering Paragraph 4 of the Complaint, Defendant denies each and every

1 allegation therein.

2 5. Answering Paragraph 5 of the Complaint, Defendant denies each and every
3 allegation therein.

4 6. Answering Paragraph 6 of the Complaint, Defendant admits that the United States
5 District Court generally has jurisdiction over claims arising under 15 U.S.C. § 1692, et seq., but
6 denies that Plaintiff has any such claim herein.

7 7. Answering Paragraph 7 of the Complaint, Defendant denies each and every
8 allegation therein.

9 8. Answering Paragraph 8 of the Complaint, Defendant denies each and every
10 allegation therein.

11 9. Answering Paragraph 9 of the Complaint, Defendant admits that generally venue
12 would be proper if Plaintiff had a valid claim, but denies that Plaintiff has any claim herein.

13 10. Answering Paragraph 10 of the Complaint, Defendant is without knowledge or
14 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
15 denies each and every allegation therein.

16 11. Answering Paragraph 11 of the Complaint, Defendant admits it has an office
17 located in California.

18 12. Answering Paragraph 12 of the Complaint, Defendant is without knowledge or
19 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
20 denies each and every allegation therein.

21 13. Answering Paragraph 13 of the Complaint, Defendant admits each and every
22 allegation therein.

23 14. Answering Paragraph 14 of the Complaint, Defendant is without knowledge or
24 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
25 denies each and every allegation therein.

26 15. Answering Paragraph 15 of the Complaint, Defendant admits each and every
27 allegation therein.
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1 16. Answering Paragraph 16 of the Complaint, Defendant is without knowledge or
2 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
3 denies each and every allegation therein.

4 17. Answering Paragraph 17 of the Complaint, Defendant is without knowledge or
5 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
6 denies each and every allegation therein.

7 18. Answering Paragraph 18 of the Complaint, Defendant admits each and every
8 allegation therein.

9 19. Answering Paragraph 19 of the Complaint, Defendant admits each and every
10 allegation therein.

11 20. Answering Paragraph 20 of the Complaint, Defendant is without knowledge or
12 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
13 denies each and every allegation therein.

14 21. Answering Paragraph 21 of the Complaint, Defendant is without knowledge or
15 information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis,
16 denies each and every allegation therein.

17 22. Answering Paragraph 22 of the Complaint, Defendant admits each and every
18 allegation therein.

19 23. Answering Paragraph 23 of the Complaint, Defendant admits each and every
20 allegations therein.

21 24. Answering Paragraph 24 of the Complaint, Defendant admits it filed a lawsuit
22 against Plaintiff.

23 25. Answering Paragraph 25 of the Complaint, Defendant denies each and every
24 allegation therein.

25 26. Answering Paragraph 26 of the Complaint, Defendant denies each and every
26 allegation therein.

27 27. Answering Paragraph 27 of the Complaint, Defendant denies each and every
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1 allegation therein.

2 28. Answering Paragraph 28 of the Complaint, Defendant denies each and every
3 allegation therein.

4 29. Answering Paragraph 29 of the Complaint, Defendant hereby incorporates all of the
5 above paragraphs of this Answer as though fully stated herein.

6 30. Answering Paragraph 30 of the Complaint, Defendant denies each and every
7 allegation therein.

8 31. Answering Paragraph 31 of the Complaint, Defendant denies Plaintiff is entitled to
9 the relief requested.

10 32. Answering Paragraph 33 of the Complaint, Defendant hereby incorporates all of the
11 above paragraphs of this Answer as though fully stated herein.

12 33. Answering Paragraph 33 of the Complaint, Defendant denies each and every
13 allegation therein.

14 34. Answering Paragraph 34 of the Complaint, Defendant denies Plaintiff is entitled to
15 the relief requested.

16 35. Answering Paragraph 35 of the Complaint, Defendant denies Plaintiff is entitled to
17 the relief requested.

18 36. Answering Paragraph 36 of the Complaint, Defendant denies Plaintiff is entitled to
19 the relief requested.

20 37. Answering Paragraph 37 of the Complaint, Defendant denies Plaintiff is entitled to
21 the relief requested.

22 38. Answering Paragraph 38 of the Complaint, Defendant denies Plaintiff is entitled to
23 the relief requested.

24 39. Answering Paragraph 39 of the Complaint, Defendant denies Plaintiff is entitled to
25 the relief requested.

26 40. Answering Paragraph 40 of the Complaint, Defendant denies Plaintiff is entitled to
27 the relief requested.
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1 41. Answering Paragraph 41 of the Complaint, no response is required.

2 **FIRST AFFIRMATIVE DEFENSE**

3 42. As a separate, affirmative defense, Defendant alleges that the Complaint, and each and
4 every purported cause of action contained therein, fails to state facts sufficient to constitute a cause
5 of action.

6 **SECOND AFFIRMATIVE DEFENSE**

7 43. As a separate, affirmative defense, Defendant alleges that the alleged actions of
8 defendants were proper and did not violate any provisions of 15 U.S.C. § 1692 et. seq.

9 **THIRD AFFIRMATIVE DEFENSE**

10 44. As a separate, affirmative defense, Defendant alleges that at all times mentioned in
11 the Complaint, Defendant acted lawfully and within its legal rights, with a good faith belief in the
12 exercise of that right, and in the furtherance of a legitimate business purpose. Further, Defendant
13 acted in good faith in the honest belief that the acts, conduct and communications, if any, of the
14 Defendant was justified under the circumstances based on information reasonably available to this
15 answering Defendant.

16 **FOURTH AFFIRMATIVE DEFENSE**

17 45. As a separate, affirmative defense, Defendant alleges that the alleged actions of the
18 Defendant were not accompanied by actual malice, intent or ill will.

19 **FIFTH AFFIRMATIVE DEFENSE**

20 46. As a separate, affirmative defense, Defendant alleges that if Plaintiff was damaged
21 in any sum or sums alleged, which Defendant denies, then Plaintiff's damages are limited by
22 California Civil Code Section 1788.30.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 47. As a separate, affirmative defense, Defendant allege that Defendant's conduct,
25 communications and actions, if any, were privileged.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 48. As a separate, affirmative defense, assuming arguendo that this Defendant violated
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1 a statute alleged in the Complaint, which presupposition the Defendant denies, such violation was
2 not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures
3 reasonably adapted to avoid any such error.

4 **EIGHTH AFFIRMATIVE DEFENSE**

5 49. As a separate, affirmative defense, Defendant alleges that the alleged actions of
6 Defendant was proper and did not violate any provisions of California Civil Code Section 1788, et
7 seq.

8 **NINTH AFFIRMATIVE DEFENSE**

9 50. As a separate, affirmative defense, Defendant alleges that Defendant's conduct,
10 communications and actions, if any, were privileged pursuant to 15 U.S.C. § 1692(k)c).

11 **TENTH AFFIRMATIVE DEFENSE**

12 51. As a separate, affirmative defense, Defendant alleges that if Plaintiff was damaged
13 in any sum or sums alleged, which Defendant denies, then Plaintiff's damages are limited by 15
14 U.S.C. § 1692(k)(a)(1), § 1692(k)(a)(2)(A), § 1692(k)(a)(3) and 15 U.S.C. § 1692(k)(b)(1).

15 **ELEVENTH AFFIRMATIVE DEFENSE**

16 52. As a separate, affirmative defense, Defendant reserves the right to allege and assert
17 any additional and/or further affirmative defenses as become apparent to Defendant during the
18 course of this litigation.

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1. That Plaintiff take nothing by reason of her Complaint;
2. For judgment in favor of Defendant, and against Plaintiff;
3. For costs of suit and reasonable attorneys' fees incurred; and
4. For such other and further relief as the Court may deem just and proper.

CARLSON & MESSER LLP

By /s/ David J. Kaminski
David J. Kaminski
Larissa G. Nefulda
CARLSON & MESSER LLP
Attorneys for Defendants,
ERICA L. BRACHFELD and ERICA L.
BRACHFELD, A.P.C. erroneously sued as LAW
OFFICES OF BRACHFELD & ASSOCIATES,
P.C.

PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

I am employed in the County of Los Angeles, State of California.


I am over the age of 18 and not a party to the within action; my business address is 5959 W. Century Boulevard, Suite 1214, Los Angeles, California 90045.

On July 7, 2009, I served the foregoing document described as:
DEFENDANT ERICA L. BRACHFELD A.P.C'S ANSWER TO COMPLAINT
on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

- ☒ (BY MAIL)
I sealed such envelope(s) and placed it (them) for collection and mailing on this date following the ordinary business practices of Carlson & Messer LLP, I am "readily familiar" with the business practices of Carlson & Messer LLP for collection and processing of correspondence for mailing with the U.S. Postal Service. Such correspondence would be deposited with the U.S. Postal Service at Los Angeles, California this same day in the ordinary course of business with postage thereon fully prepaid.
- ☐ (BY FACSIMILE)
I transmitted via telecopier machine such document to the offices of the addressees.
- ☐ (BY HAND DELIVERY)
I delivered such envelope by hand.
- ☐ (VIA NEXT DAY FEDERAL EXPRESS)
I delivered the above described documents in the above described envelopes to Federal Express for delivery via FedEx.
- ☐ (State)
I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☒ (Federal)
I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed this 7th day of July, 2007 at Los Angeles, California.


Linda Brooks

SERVICE LIST

Mercy Mesiano v. Erica L. Brachfeld and Law
Our File No. 05968.00

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Attorneys for Plaintiff,
MERCY MESIANO